IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.495 OF 2004
IN
NOTICE OF MOTION NO.2265 OF 2002
IN
SUIT NO.2730 OF 2002

Cabot India Limited .. Appellant.

V/s.

Ajay S. Agrawal .. Respondent.

Mr.Virag Tulzapurkar with Ms.Deepa Chavan i/b. Little & Co. for the appellant.

Mr.P.K. Dhakephalkar i/b. D.R. Jhuriya for the respondent.

CORAM : R.M. LODHA, &
J.P. DEVADHAR, JJ.

DATED : 29TH SEPTEMBER, 2004.

P.C. :

Admit.

2. Advocate on record for the respondent waives service.

3. The appeal is treated on board for hearing.

4. To our query to the learned counsel for

the respondent as to under which provision of the Civil Procedure Code, the respondent herein (plaintiff) prayed for the reliefs as set out in the notice of motion and granted by the learned motion Judge, the learned counsel for the respondent (plaintiff) placed reliance on Order 11 Rule 14 of the Civil Procedure Code.

5. Having considered the prayers (a), (c) and (d) of the notice of motion, the affidavit in support thereof and the order passed by the learned motion Judge, we find that none of the prayers (a), (c) and (d) individually or collectively is covered by Order 11 Rule 14 of the Civil Procedure Code nor the impugned order passed by the learned motion Judge can be said to be covered by the said provision.

6. We, accordingly, allow the appeal and set aside the order dated June 18, 2004. The notice of motion No.2265 of 2002 stands dismissed.

7. However, the plaintiff shall be at liberty to make an appropriate application, if so advised, under Order 11 Rule 14 of the Civil Procedure Code and if such an application is made, we observe that the said application will be considered on its own

merits by the learned trial Judge.

8. For a period of three weeks, the ad-interim order dated April 25, 2003 to the extent it relates to sludge material shall remain operative.

(R.M. LODHA, J.)

(J.P. DEVADHAR, J.)